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| 10/715,024 | 11/18/2003 | Hideo Mae | 1009683-000487 | 3316 |

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| EXAMINER |
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CHENEY, BOBAE K.

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| ART UNIT | PAPER NUMBER |
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2469

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12/23/2010

ELECTRONIC

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/06/2010 have been fully considered but they are not persuasive.
2. Regarding to claims 16 – 18 (see pages 7 and 8), applicant argues that computer-readable medium can not be interpreted as a signal or carrier wave. However, the limitation or statement is merely an allegation with no fact of evidence support. Also, one in skilled in the art understands that signal is used to store data to transfer from one computer to another. Therefore, 101 rejection directed to non-statutory subject matter for claims 16 – 18 still remains.
3. Regarding to claim 19 (see page 6), the applicant remark is noted and typographical error was made to the claim, where the claim is cancelled on response filed on 1/16/2009 by applicant.
4. Regarding to claim 16 (see pages 8 - 15), applicant argues that Takashi does not disclose or suggest permitting writing of firmware. However, Yasushi teaches determining the files are allowed to be written (permission step) [Paragraph 31, 38].

Applicant also argues that Takashi and Yasushi do not teach priority level. However, Albanese teaches priority level [Column 2 Line 58 - Column 3 Line 6].

Applicant argues that Albanese does not teach acquiring information relating to a priority level or determining if a firmware should attain a write allowable state based on the acquired information relating to a priority level.

However, these limitations are taught by Yasushi. Yasushi teaches combining data of each file, which means the system determined the files are allowed to be written [Paragraph 31, 38]. Yasushi teaches combining data of each file [Paragraph 31, 38]. It would have been obvious to one of ordinary skill in the art at the time of the invention to have priority level set taught by Albanese in divided files transferred taught by Yasushi for the purpose of processing the most critical data first. For example, if data A needs to be processed in order to process data B, A should be processed first. By adding priority level in the data, it would reduce the time for processing the data. Applicant also argues that Takashi, Yasushi, and Albanese do not teach that the claimed invention does NOT wait for the entire firmware to be received prior to writing a part to memory, it only requires that the rewrite order is maintained. However, the claim 16 does not limit to writing the divided firmware into memory without delaying the writing operation. Therefore the combination of Takashi, Yasushi, and Albanese teach the limitation of claim 16.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

/Ian N. Moore/

Supervisory Patent Examiner, Art Unit 2469

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